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Letter dated 26 January 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo and in accordance with paragraph 5 of Council resolution 1616 (2005), I have the honour to submit herewith the report of the Group of Experts on the Democratic Republic of the Congo (see annex).

In this connection, I would appreciate it if the present letter, together with its annex, were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Oswaldo de **Rivero**
Chairman

05-66665 (E) 060206

Annex

Letter dated 23 December 2005 from the Group of Experts on the Democratic Republic of the Congo addressed to the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004)

The Group of Experts on the Democratic Republic of the Congo has the honour to transmit herewith their report, in accordance with paragraph 5 of Security Council resolution 1616 (2005).

(*Signed*) Ibra Deguene **Ka**

(*Signed*) Joseph André Jacques **Buisson**

(*Signed*) Rico **Carisch**

(*Signed*) Abdoulaye **Cissoko**

(*Signed*) Jean-Luc **Gallet**

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Abbreviations

ANR	National Intelligence Agency
BCC	Central Bank of the Congo
CAGL	Compagnie aérienne des Grands Lacs
CONADER	National Commission for Demobilization and Reintegration [Commission nationale de la démobilisation et réinsertion]
DAC	Civil Aviation Authority [Direction de l'aeronautique civile]
DGM	General Directorate for Immigration
DGRAD	General Directorate for Administrative, Judicial, Property and Share Revenues
EGEA	Encadrement général des exploitants artisanaux d'or
EUSEC	European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo
FAC	Congolese Air Force
FARDC	Armed Forces of the Democratic Republic of the Congo
FDLR	Forces démocratiques de libération du Rwanda
FLC	Front de libération du Congo
FNI	Front des nationalistes et intégrationnistes
FRPI	Front de résistance patriotique d'Ituri
GLBC	Great Lakes Business Company
GSSP	Special Presidential Security Group [Groupe spécial de sécurité présidentielle]
IAEA	International Atomic Energy Agency
JMAC	Joint Mission Analysis Cell
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
MRC	Mouvement révolutionnaire congolais
OFIDA	Customs and Excise Office
OKIMO	Office des mines d'or de Kilo-Moto
ONUB	United Nations Operation in Burundi
RCD-Goma	Rassemblement congolais pour la démocratie
SOMIKIVU	Société minière du Kivu
TPD	Tous pour la Paix et le Développement

I. Introduction

1. The Security Council, in its resolution 1493 (2003), imposed an embargo on the eastern part of the Democratic Republic of the Congo, in particular on the Ituri district and the two Kivu provinces. By its resolution 1596 (2005), the Council extended the embargo to the entire Democratic Republic of the Congo, clarified the exemptions to the embargo, strengthened the monitoring mechanism and, lastly, requested States to ensure that the measures set forth in the resolution were implemented.

2. In its resolution 1616 (2005), the Council extended to 31 July 2006 the provisions of paragraphs 20 to 22 of resolution 1493 (2003), as amended and expanded by paragraph 1 of resolution 1596 (2005), and reaffirmed paragraphs 2, 6, 10 and 13 to 15 of resolution 1596 (2005), renewed the mandate of the Group of Experts until 31 January 2006 and requested the latter to update the Committee on its work by 10 November 2005 and to report to the Security Council, through the Committee, by 10 January 2006 at the latest.

3. By a letter dated 2 September 2005, the Secretary-General informed the Security Council of the composition of the Group of Experts. Chaired by Ibra Déguène Ka (Senegal), the Group is composed of an arms trafficking expert, J. A. J. Buisson (Canada), a finance expert, Rico Carisch (Switzerland), a civil aviation expert, Abdoulaye Cissoko (Mali), and a customs expert, Jean-Luc Gallet (France). The Group of Experts was assisted by two consultants, Christian Dietrich (United States of America) and David Huxford (United Kingdom of Great Britain and Northern Ireland), and by Alexander Rose, Political Affairs Officer.

4. The Group of Experts wishes to thank, in particular, the Special Representative of the Secretary-General, William Lacy Swing, and his staff for their invaluable logistical support and for their continued collaboration in the area of information exchange. The Group of Experts also wishes to thank the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), particularly its offices in Bunia, Bukavu, Goma and Lubumbashi, and its liaison offices in Kampala and Kigali. Lastly, the Group of Experts wishes to thank the United Nations Operation in Burundi (ONUB) for the facilities it offered the Group during its stay in Bujumbura.

A. Methodology

5. The Group of Experts took advantage of the nine weeks at its disposal to meet with the Governments of the Democratic Republic of the Congo, Uganda, Rwanda, Burundi and the United Republic of Tanzania and also to make enquiries on the ground, particularly in the Ituri district and the Kivu provinces, in keeping with Security Council resolution 1616 (2005). The Group carried out most of its investigations in the Ituri district and the Kivu provinces. The Group also visited Katanga province.

6. In its effort to trace certain potential lines of supply, the Group also visited a number of weapons-producing countries.

7. The Group of Experts sent notes verbales, comprising a list with explanations of the information required, several weeks before the meetings with the

Governments mentioned above, to enable them to prepare properly. The Group also recontacted some of these Governments regularly to remind them of the documents and information that the Group still required in order to carry out its mission.

8. Since the list of individuals and entities subject to sanctions was published by the Security Council on 1 November 2005, the Group of Experts has been raising awareness among some of the Governments of the region and certain financial institutions of the need to exercise vigilance in applying Security Council sanctions.

9. In an ongoing effort to meet the highest standards of evidence available to a non-judicial body, which cannot summon witnesses, the Group of Experts set about investigating and documenting a number of practical cases, as well as continuing its assessment of the extent to which the countries of the region are implementing the measures set forth in Security Council resolutions 1596 (2005) and 1616 (2005).

10. In the area of arms trafficking, the Group of Experts paid particular attention to tracing weapons not only to certain producing countries, but also to a number of countries in the region, particularly the Democratic Republic of the Congo; such cross-checking provides a fuller picture of the legal and illegal movement of weapons, both inside the Democratic Republic of the Congo and abroad.

11. In the area of civil aviation, the Group of Experts sought to identify, on the basis of potential sources, all the flights that might have been used to transport weapons to or within the Great Lakes region, using information emanating from various agencies responsible for monitoring and controlling air traffic and, where possible, data sent to the Group by the countries of the region.

12. Financial investigations focused on an in-depth analysis of the methods used to finance embargo violations. To do so, investigations delved not only into conventional financial aspects, but into far more elaborate and institutionalized scenarios as well.

13. As regards customs, the Group of Experts visited all the eastern borders of the Democratic Republic of the Congo in order to observe illegal migratory movements and study illegal arms trafficking, which is facilitated by the misappropriation of taxes and the illegal exploitation of natural resources.

B. Context

14. At the time of writing, the political situation in the country was dominated by the National Assembly's consideration of the draft electoral law and by preparations for the constitutional referendum scheduled for 18 December 2005.

15. The security situation in the country has improved considerably, as demonstrated by the high voter registration rate, even in the eastern part of the Democratic Republic of the Congo. Voter registration will probably exceed 25 million people. This figure represents a critical mass and it should therefore be possible to organize credible and representative elections throughout the Democratic Republic of the Congo, for both the constitutional referendum and the legislative and presidential elections.

16. Nonetheless, the Group of Experts notes that security sector reform is not evolving as quickly as hoped. Although the first phase of integration is now complete, with the establishment of six integrated brigades, the second of the three

phases is struggling to get off the ground. In addition, there are ongoing delays in the payment of integrated soldiers and police officers, as is pointed out in the European Union's recent EUSEC report.

17. It is therefore urgent for the Transitional Government to make a renewed effort to speed up the programme of reform in this sector, the success of which should guarantee peace and the future stability of the Democratic Republic of the Congo.

18. The Group of Experts welcomes the vigorous actions that the Armed Forces of the Democratic Republic of the Congo (FARDC), with MONUC support, have taken against armed groups in the eastern part of the country. These actions have, in particular, enabled security to be significantly improved in the Ituri district.

19. Moreover, the increased presence of FARDC and MONUC along certain stretches of the border, particularly those with the Sudan and Uganda, has made it harder for foreign armed groups to operate.

20. While the improved security situation in Ituri has helped strengthen the State's authority in that region, national demobilization and reintegration programmes continue to be undermined by delays in the payment of some of the demobilized elements.

21. The pressure exerted on foreign armed groups by FARDC, with logistical support from MONUC, has also been stepped up in the two Kivus. Actions to dislodge by force and repatriate FDLR forces have been stepped up, particularly since the expiry of the ultimatum on 30 September 2005 and the communiqué by the Tripartite Plus One Commission on 21 October 2005.

22. There are still many areas of insecurity in the Ituri district, the Kivus and northern and central Katanga, where competition for control of natural resources continues to drive the violent actions of combatants who are illegally exploiting the country's wealth.

23. As regards the economy, the increase in foreign investment in the Democratic Republic of the Congo is an encouraging sign. However, the economic infrastructure remains vulnerable and is the object of many covetous designs. Until industry, mining and transport networks are under State control, it will be impossible to ensure peace and security in the Democratic Republic of the Congo.

24. Lastly, the Group of Experts continues to be concerned about the military and financial support being given, both inside the Democratic Republic of the Congo and abroad, to the various armed groups in the eastern part of the country.

II. Arms smuggling and trafficking issues

A. Investigative approach

25. The Group paid particular attention to the internal movement of arms in addition to smuggling and border-related issues. Investigations conducted during the present mandate have concluded that current internal illegal migration, illegal ownership and uncontrolled legal ownership of weapons inside the borders of the Democratic Republic of the Congo are just as destabilizing, if not more so, than the illegal shipment of weapons crossing the border.

26. During the mandate the Group approached the arms embargo with a view to enhancing overall firearms traceability. The experts started their visits of firearms-producing and exporting countries, but owing to time constraints could only visit Bulgaria. That first visit to a producing country has helped the group to understand the identification and migration of firearms, especially those most commonly found in the conflict areas of the Democratic Republic of the Congo.

27. The Group also looked into legal transactions between producing and exporting countries on the one hand, and the Democratic Republic of the Congo and its neighbours on the other. The intent is to use the information obtained from these legal transactions for comparison with firearms found in the conflict areas of the Democratic Republic of the Congo. Information on firearms, ammunition and military supplies for comparison purposes is key to determining the validity of allegations made by individuals or groups. It allows the experts to prove or disprove allegations and helps to determine whether or not embargo violations have taken place.

28. Internally, a sampling of over 4,000 firearms was undertaken by the Group with the goal of improving the accuracy of firearms identification. The Group was able to identify numerous makes and models of firearms, manufactured in different countries. That provided the Group with information that allowed them to seek the cooperation of the manufacturing countries by tracing requests for specific information from the manufacturers and exporting authorities. This form of tracing is routinely used by law enforcement agencies worldwide.

29. In another tracing initiative, access to military and police records of the Democratic Republic of the Congo was requested in order to again compare the firearms descriptions and serial numbers with those found in the hands of illegal armed groups or unauthorized individuals in the Democratic Republic of the Congo. That information will help determine whether or not individuals to whom firearms are given in the course of their duties are in fact maintaining custody of their firearms or have violated the arms embargo.

30. This tracing of weapons back to manufacturing countries, the comparison of information held by certain neighbouring countries and internal records are three ways to identify embargo violations more clearly and to collect necessary supporting evidence. This investigative approach is aligned with the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

B. Opacity in the international arms trade

31. The Group travelled to Bulgaria, which permitted the exportation of 5,000 AK-47s to Rwanda. The information from this legal transaction was sought for serial number comparison purposes with information obtained from firearms identification in the conflict areas. During this mandate, the Group was able to determine that the transaction had indeed taken place but could not obtain the serial numbers from Bulgaria or Rwanda, even though the Group made numerous demands to the two countries involved. The Group has made verbal and written requests to both the Bulgarian and Rwandan authorities as well as to the manufacturer and is still waiting for the requested serial numbers. However, Bulgaria did confirm that some firearms identified in the Democratic Republic of the Congo were

manufactured in their country and legally exported to a third country, Nigeria, in May 2001. This information will be of assistance to the Group of Experts.

32. The broker of the transaction informed the Group that he was not obliged to provide serial numbers in order to obtain an export authorization. The Group is concerned about the issuance of export authorizations without the requirements to provide serial numbers. The already difficult task of tracing older firearms from the factory is made even more difficult as a result of the non-requirement to commit serial numbers to the exportation documents.

33. The Group of Experts has both verbally and in writing requested documents identifying the exact nature of arms shipments imported by the Transitional Government, as well as the Governments of Rwanda and Uganda since the beginning of the embargo. To date, even after repeated attempts to obtain these documents, they have not been provided to the Group. As a result, the Group has not been able to make the above-mentioned comparisons.

C. Illegal internal transfers of weapons

34. The Group of Experts has investigated the following internal transfer of ammunition and related military materiel by General Pacifique Masunzu.

35. General Masunzu, the deputy commander of the 4th Military Region, returned to his hometown of Minembwe in the territory of the 10th Military Region in early October 2005. General Masunzu, several officers of the 112th Brigade, and a cargo of ammunition and uniforms were flown from Bukavu to Minembwe on 6 and 7 October 2005 on five flights hired by the 10th Military Region. These flights carried 30 cases of 7.62 x 39 sub-machine gun ammunition, 6 cases of RPG-7 ammunition, 5 cases of 82 mm ammunition, and 2,000 uniforms with boots. The embargoed material was received by the 112th Brigade under orders from General Masunzu. The Group of Experts considers that this is an embargo violation under paragraph 2 (a) of resolution 1596 (2005).

D. Tracing of firearms

36. Prior to arriving in the Democratic Republic of the Congo, the Group of Experts was provided with two lists of firearms collected during the various demobilization and disarmament projects that have taken place in the country. One list contained approximately 5,000 firearms, all identified as AK-47s with serial numbers, and the second list of 1,200 firearms were identified as being sub-machine guns. This information, while useful to those working on disarmament programmes, is of limited value for tracing purposes due to the lack of certain essential details. Therefore, the Group of Experts examined over 4,000 firearms in more detail and based on this, tracing requests were sent to the countries of manufacture. The tracing requests asked those States to provide information from the manufacturers' records, as well as recent exportations involving the firearms. This information should aid the Group to determine how the weapons were transferred from a legal manufacturing and export process and are now found being used illegally in the Democratic Republic of the Congo.

37. The Group did receive answers from one manufacturing country stating that owing to the date of manufacture of the weapons they were not able to assist with the tracing requests. While the Group understands that owing to the date of manufacture records may or may not be available, it is very concerned about the lack of record keeping and the lack of requirements for exporters to provide exporting authorities with the serial numbers of all firearms involved in export transactions. While it is understood that there is additional work involved in correctly identifying firearms and committing serial numbers to an export document, the non-availability of this information deprives the Group as well as other groups investigating embargo violations of key information, especially when dealing with older surplus firearms.

38. Tracing of firearms requires the full cooperation of all States. Their immediate attention to information requests submitted by the Group is essential to complete their investigations within the mandated period.

39. The Group's investigations also revealed that some of the manufacturers were transforming old military stocks into sporting firearms and in doing so, they significantly changed the original appearance of the firearms and, more importantly, they removed and replaced the serial numbers. This practice allows for the complete disappearance of entire stocks without any chance of tracing back to origins.

E. Arms caches and stockpiles

40. The Group of Experts was advised of the existence of numerous arms caches in various parts of the country. While some weapons are hidden by armed groups and outlaws, others are allegedly held by officials in position of authority. Here again, inadequate access to in-country air transportation and time pressures prevented further investigation into these allegations.

41. The Group reaffirms that it is just as concerned about internal trafficking as it is about smuggling of firearms.

F. Receiving sites

42. The Transitional Government provided the Committee with details of the location of designated reception sites where military supplies, including firearms, can legally enter the country during the embargo period, under the terms of paragraph 4 of resolution 1596 (2005). The Group only had time to investigate the site of Lubumbashi. During this visit, it became apparent that, although the site was designated, there were no specific records kept on any of the firearms imported. The Group met with the Commander of the 6th Military Region, who is responsible for supplying Katanga province with its military supply needs. While the Commander produced a copy of an order form containing military supply requirements, including the need for 1,800 AK-47s, he indicated that he had simply sent the order forms to Kinshasa for completion and went to the Lubumbashi airport himself to sign for the arrival of shipments. The requested firearms listed on the order form had not yet been delivered to Lubumbashi.

43. A second meeting was arranged with the Deputy Commander of the Republican Guard formerly called the Special Presidential Security Group (GSSP)

in Lubumbashi, who also stated that his troops obtained their supplies including firearms in the same manner as FARDC.

44. The Group intended to verify procedures at the designated reception site of Kinshasa, and requested authorization during a visit to the Vice-Minister of Defence and a subsequent letter to the Minister of Defence. The Group has yet to receive a response.

G. Identification and record keeping

45. Investigations conducted by the Group clearly identified deficiencies in record keeping and accurate firearms identification by numerous stakeholders. These deficiencies have made the work of the Group extremely difficult and also facilitated the work of those involved in smuggling and trafficking firearms. It deprives investigators of the information needed to distinguish between legally and illegally held firearms in the Democratic Republic of the Congo and identify the last legal owner of firearms.

46. The Group feels that the opportunity to identify firearms more accurately and to secure the serial numbers should be seized during the disarmament process and suggests that the various programmes involved, such as disarmament, demobilization, repatriation, reintegration and resettlement, disarmament, demobilization, reinsertion, disarmament and community reintegration, acquire additional expertise and training in this field. Full integration of all programmes involved in recovering firearms and centralized record keeping should be mandatory. To this extent, the Group obtained very good support from the heads of MONUC disarmament, demobilization, repatriation, reintegration and resettlement and JMAC and from the director of the National Commission for Demobilization and Reintegration (CONADER) in Lubumbashi, and some assistance was provided by the Group to improve training and record keeping within these programmes.

47. Current efforts to address the problem of small arms and light weapons in the Democratic Republic of the Congo are confronted with a combination of deficiencies in weapons identification and record keeping, the large internal uncontrolled circulation of legally and illegally held weapons, the smuggling of arms into the country and the allegations of arms caches and diversions of legally acquired weapons. Furthermore, this situation is part of a wider international context where a historic opacity in legal arms sales makes the tracing of these weapons nearly impossible. The Group is of the opinion that these layers of complexity have resulted in a situation where it is virtually impossible at this point to reliably determine which weaponry is legally held in the Democratic Republic of the Congo. This further complicates efforts to control illegal small arms and light weapons.

H. Recommendation

48. The Group recommends that all firearms that are legally held or imported in the Democratic Republic of the Congo, including those of the FARDC integrated brigades, as well as those collected from disarmament programmes and re-employed in the FARDC, be independently re-registered and re-marked in conformity with a Democratic Republic of the Congo-specific system. This enhanced marking and record-keeping approach is in line with the United Nations Programme of Action to

Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons programme of action and is also identified as a goal of the Democratic Republic of the Congo Ministry of Foreign Affairs "Commission: Lutte contre le Trafic Illicite des Armes Légères et de Petit Calibre". If a system of this nature were to be put in place, the Democratic Republic of the Congo could become a regional example of effective implementation of the United Nations Small Arms and Light Weapons Programme of Action.

III. Customs and migratory movements

A. Customs

49. The porosity and length of the borders that the eastern Democratic Republic of the Congo shares with its neighbours, the lack of adequate monitoring of its land and lake frontiers and the many possibilities for smuggling continue to be aggravating factors in the failure to implement the arms embargo in the Democratic Republic of the Congo.

1. Ituri district

50. The Group recalls that in its previous reports it explained the prefinancing scheme used by certain armed group leaders, such as Jérôme Kakwavu. During its current mandate, the Group checked the customs revenues from the Ituri district paid into the Central Bank of the Congo in 2004 and 2005, focusing its investigation on the six main Ituri customs posts, namely Ariwara, Aru, Bunia, Kassindi, Mahagi and Tchomia.

51. Official bank statements show that customs revenues in Ituri amounted to $14,000 in 2004 and $28,000 for the first ten months of 2005. The Group met with the Aru Customs Collector, Mavinga Pepe Vumbi, and Customs Inspector, Fidèle Bolombi Ekethe, who indicated that the revenues collected by that office were estimated at $70,000 for Aru and should be the same or even higher for the other five Ituri customs posts.

52. Despite this growth in revenues, the Group noted a shortfall of $4 million during the first 10 months of the year. Examination of the records of the Central Bank in Bunia revealed that the Aru office remitted less than $10,000 in cash to the Central Bank for the month of October 2005. That turned out to be the case throughout the year, with March being a special case: none of the Ituri customs offices sent in their revenues for the month of March 2005. According to certain sources, the funds misappropriated for that period may have been used to finance the establishment of the Mouvement révolutionnaire congolais (MRC). The Group of Experts was surprised to learn that the six Ituri customs collectors, who had been kept in their posts or installed by the FARDC forces, had made a tacit agreement not to deposit the March 2005 revenues.

53. The Group of Experts found that the Ituri customs collectors and their deputies continue to resist central authority. Pressured by certain businessmen, in March 2005 they hired a group of armed men to repel and threaten a commission of inquiry sent by the Central Bank in Bunia to audit the accounts after the funds had disappeared.

54. In October 2005, the Group witnessed the arrival of four large-cylinder-capacity vehicles, which had been purchased by the Aru Customs Collector. The Group's investigations at the Aru administrative offices revealed that the vehicles were never registered with the Aru tax authorities. The Group confirmed that many new vehicles and motorcycles had entered the country duty- and tax-free at Aru, under the authority of the Customs Collector. Some of the motorcycles, which had been purchased with funds from the Customs and Excise Office (OFIDA), were given to customs agents to win their sympathy. The ultimate recipients of the vehicles have not yet been identified. These practices reveal the potential for harm and the ease with which vehicles and other goods, including firearms, can cross the border without being checked. The Ituri provincial archives in Aru containing, in particular, sales contracts for movable and immovable property and other documents were burned shortly after the dissemination of the report of the Group of Experts on the Democratic Republic of the Congo in August 2005.

55. Owing to the absence of financial establishments in Aru and inadequate accounting procedures, the customs collectors are free to use customs duties and the income from the sale of visas and stamps as they wish. The Aru border post does not have customs warehouses near its offices and therefore is unable to store goods or levy customs duties in accordance with the customs code. Vehicles and containers are taken out of Aru under escort, which facilitates the perpetration of fraudulent acts, including arms transfers, before they arrive at their destination. The same procedures are followed near the lakes, where goods arriving from Uganda are immediately loaded onto trucks without a physical inspection. A fixed tax is levied, depending on the customs agent's sympathies.

56. During the course of its investigations of the customs posts, the General Directorate for Immigration (DGM) and the National Intelligence Agency (ANR) at Aru and Ariwara, the Group discovered that the prefinancing scheme is still in operation and that funds continue to be transferred to Jérôme Kakwavu.

57. With regard to the Mouvement révolutionnaire congolais (MRC), investigations by the Group of Experts of certain tax administrations in the Ituri district, including the Customs and Excise Office (OFIDA) and the DGM, suggest that diverted customs revenues were used to finance the establishment of MRC.

58. Although the Government of Uganda initially denied that MRC leaders were in Kampala in June 2005, under pressure from the international community, it later acknowledged their presence and expelled them. During a meeting with the Government of Uganda on 23 October 2005, the Group enquired about the whereabouts of these personae non gratae. The Government assured the Group of Experts that they were no longer in Ugandan territory, but information obtained by the Group indicates otherwise.

59. The Group of Experts learned from an MRC official that, when Jérôme Kakwavu departed for Kinshasa and joined FARDC, he left behind some weapons, including several heavy weapons, that were in poor condition. Financial transactions involving some of those weapons apparently took place between the MRC and Jérôme Kakwavu.

2. The Kivus

60. The Group of Experts travelled to Goma, at the border with Rwanda, where it found evidence that tax and customs revenues were being misappropriated by various local authorities to finance certain local actors. The Group interviewed the Director of OFIDA and his two deputies, in particular. The Director acknowledged that the Goma customs post generated annual revenues of several million dollars. The Group expected to receive documentation on tax and customs receipts, but the Director did not hand over the relevant documents.

61. The Group also interviewed the DGM/ANR Director for the Goma border post, Albert Semana. All the agents employed by DGM/ANR are appointed by the Governor of the province, upon Mr. Semana's recommendation. The agents are paid between $5 and $10, at the Director's discretion and depending on the degree of cooperation between them. According to certain sources at the non-governmental organization Tous pour la Paix et le Développement (TPD), the appointed agents are expected to join TPD and pay a membership fee to the organization.

62. Mr. Semana did not allow the Group to photocopy documents and was extremely reluctant to show the experts the data entries and release vouchers. The Group consulted the accounts under tense conditions.

63. According to a source at the DGM, a portion of the revenue from the sale of visas is paid to TPD. The Group would like to point out that Mr. Semana has been accused of grave human rights violations for having arbitrarily detained persons in holding cells at the ANR.

B. Migration

Visit to Mutebutsi in Coko camp

64. Following a request made to the Rwanda Government, the Group was able to visit Coko camp, where Jules Mutebutsi and his men have been located since June 2004.

65. Coko camp is located in the Mont Nyakizu area in the south-west part of Rwanda near the Burundi border and only 60 air miles from Bukavu in the Democratic Republic of the Congo. There are no specific signs identifying the status of the camp and there was no fence or any type of security visible to the Group during the visit.

66. Even though the Group had asked for a list of all occupants of the camp, it was not provided until 48 hours after the visit. The number of occupants was difficult to determine and the request to have them all assembled was turned down. Occupants appeared to be free to move around and come and go as they pleased. The Group visited all the barracks and storage quarters and counted no more that 60 occupants. The Group was unable to determine the identity of the occupants, with the exception of Jules Mutebutsi and three of his men.

67. Mutebutsi indicated that he arrived in Coko camp after the events of Bukavu of May-June 2004. He and his high-ranking officers were well-dressed, in contrast to the other occupants, who were living in marginal sanitary conditions and there appeared to be a shortage of food and other basic necessities. It appeared that Mutebutsi and his three majors were not residing at the camp. Mutebutsi also stated

that his wife and eight children were currently in Kigali, where they had resided since before the Bukavu crisis. Mutebutsi was later reported to be walking freely around Kigali.

68. The Group interviewed Mutebutsi concerning his actions and support while in the Democratic Republic of the Congo. He claimed that General Laurent Nkunda had provided him with reinforcement in the form of four brigades during the Bukavu crisis in May-June 2004. He also confirmed that 15 of his soldiers were in the refugee camp in Gatumba, and were killed during the massacre.

69. One of the key concerns raised by the visit is the fact that Colonel Mutebutsi crossed the border in June 2004 with 315 of his men. To date only 47 have been verified as having crossed back into the Democratic Republic of the Congo and approximately 60 were at the site during the visit, with 8 reported as being on sick bay, that leaves 200 of his men unaccounted for.

70. Regarding the 47 men who crossed back into the Democratic Republic of the Congo with Colonel Bisogo in early October 2005, they were later intercepted in the Democratic Republic of the Congo by the Forces démocratiques de libération du Rwanda (FDLR). At the time of the interception, some of them were wearing military uniforms and carrying weapons, communication equipment and other logistical support equipment. The Group was unable to confirm that those rebels are now free and living in the Haut Plateau area.

C. Customs investigations in Burundi

71. The Group of Experts travelled to Lake Nyanza, where it interviewed the district administrator, the aviation and border police and the customs service regarding movements of weapons on Lake Tanganyika. From these interviews, they learned that there is a considerable amount of commercial traffic on the lake. Hundreds of boats from both the United Republic of Tanzania and the Democratic Republic of the Congo leave the three main ports every day. The Group is interested in the movements of these boats, since a boat carrying weapons and ammunition hidden under a load of fish had been intercepted five months earlier. The authorities interviewed refused to provide any details of the incident.

D. Recommendation: reinforce the MONUC presence along the eastern borders of the Democratic Republic of the Congo

72. Given its presence along the eastern borders of the Democratic Republic of the Congo, MONUC could assist customs officials in monitoring vehicles and goods coming in from other countries. In particular, MONUC could help in conducting random searches once the vehicles or goods have crossed the border. The Group of Experts believes that if MONUC were to reinforce its presence along the borders, it would give the customs agents more legitimacy and thereby help to deter arms smugglers and reduce the illegal exportation of natural resources.

IV. Confronting the financing of arms embargo violations

A. Introduction

73. Investigations into financial aspects of suspected arms embargo violations revolved around abuses of the industrialized extraction of precious minerals. The Group analysed possible violations through the:

- Democratic Republic of the Congo parastatal company OKIMO, its concession areas, joint venture partners and artisan miners
- Pyrochlor mine of Lueshe in North Kivu
- Continued avoidance of full disclosure and transparency of gold and cassiterite imports by Uganda and Rwanda, respectively

74. These studies reveal violations of the financial aspects of the relevant resolutions. They also provide an opportunity for the Group to describe the sophisticated means that armed groups are employing to entrench themselves and exploit their regional dominance. In particular, the examples of the former FNI-members of Ituri or the former RCD-Goma members, which includes Governor Eugene Serufuli, demonstrate how administrative procedures have now replaced force of arms. The effects are all the same: economic benefits to all the people of the Democratic Republic of the Congo and the influence of the Transitional Government are undermined or even thwarted.

75. The investigations also strongly point to the need for an enhanced traceability system of all precious minerals that will support fair and profitable trading relationships between all nations of the Great Lakes region. In a final section of this report, more detailed information for a proposal of a short-term pilot programme on a certification of origin system is presented.

B. OKIMO

1. Overview

76. OKIMO controls 83,000 km^2 of concession land that is divided into concessions areas 38, 39, 40 and the exclusive research zone, all located in Orientale Province. The value of all these properties is based on reserves of about 20 million ounces of gold; at the current record world market price of close to $500 per ounce, the OKIMO gold reserves have a value of $10 billion, or $6 billion based on the average long-term ounce value of $300.

77. In order to efficiently exploit these assets and to fulfil its socio-economic role for the local populations, it is necessary for OKIMO to enter into partnerships with industrial mining companies, semi-industrial, and artisan miners. In all of these agreements, the State maintains the exclusive property rights while the Minister of Portfolio through OKIMO usually keeps a 20 per cent stake in the exploration venture. Concession agreements should stipulate clear and measurable exploration and production procedures, and any violation of them may result in the cancellation of the venture partnership. Because of their ability to allocate significant capital to a mining project, and thus, to enhance the Congolese economy, the 12 industrial mining joint-venture partners are OKIMO's most significant counterparts.

2. Joint-venture partners

78. During the reporting phase, the Group of Experts discovered that four concession agreements controlled by the following entities had not been honoured because of inactivity:

Joint-venture partners	*Parent company*
Aston and Sheffield Commodities (ASC-Goldagem) 42 B Avenue du Congo Quartier Delveaux Commune de Ngaliema Kinshasa Democratic Republic of the Congo	Goldagem ASC-Goldagem B.P. 18687 Dubai United Arab Emirates
Bandy Investments SPRL Immeuble du 30 Juin Local 2 Boulevard du 30 Juin Commune de la Gombe, Kinshasa Democratic Republic of the Congo	Bandy Investments (PTY) Ltd. 25 Bath Avenue Rosebank/South-Africa P.O. Box 3463 Parklands 2121 South Africa
Mwana Africa Congo Gold Immeuble UBC Boulevard du 30 Juin 3ème étage Cabinet Kramba Kinshasa Democratic Republic of the Congo	Mwana Africa Holdings (PTY) Ltd. 3rd Floor East Wing 11 Alice Lane Standard Bank Building Sandton 2196 Johannesburg South Africa
Afriminerals SPRL Immeuble UBC 7ème étage Avenue des Aviateurs Kinshasa/Gombe Democratic Republic of the Congo	Afrimineral Holdings (PTY) Ltd. 275 Linden Road Strathavon Sandton South Africa

79. Bandy Investments PTY Ltd., which is controlled by South African partners Niko Shefer, Ayanda Dlodlo, and Douw van der Merwe Viljoen, decided to cede its concession rights on 9 November 2005, after the Group announced an information request.

80. The following joint ventures appear to be active as required by their concession agreements, which at the current stage implies that only exploration but no industrial production takes place:

Joint venture partners in Concession areas 38-39	*Parent company*
AngloGold Ashanti Kilo	AngloGold Ashanti Ltd
Kibali Gold SPRL 4854 Avenue Lt. Colonel Lukusa Kinshasa/Gombe Democratic Republic of the Congo	None identified
Borgakim Mining SPRL 4854 Avenue Lt. Colonel Lukusa Kinshasa/Gombe Democratic Republic of the Congo	None identified
Gorumbwa Mining SPRL 4854 Avenue Lt. Colonel Lukusa Kinshasa/Gombe Democratic Republic of the Congo	None identified
Amani SPRL 4854 Avenue Lt. Colonel Lukusa Kinshasa/Gombe Democratic Republic of the Congo	None identified
Rambi Mining SPRL 4854 Avenue Lt. Colonel Lukusa Kinshasa/Gombe Democratic Republic of the Congo	None identified
Tangold SPRL Immeuble du 30 Juin Local 2 Boulevard du 30 Juin Commune de la Gombe, Kinshasa Democratic Republic of the Congo	c/o Greendale Universal Holdings Ltd. Tropic Isle Building Wickhams Cay 1 Roadtown, Tortola British Virgin Islands
Blue Rose SPRL Avenue des Aviateurs Immeuble UBC 7ème etage Kinshasa/Gombe Democratic Republic of the Congo	Blue Rose Investments (PTY) Ltd. 275 Linden Rd. Strathavon Sandton South Africa

81. The Group discovered that the Perth, Australia-based Moto Goldmines Ltd. has established Border Energy, which entered into a partnership with Kinshasa, Democratic Republic of the Congo-based Orgaman SPRL. That partnership controls the seven companies operating in Concession 39. The background of these partnerships goes back to the mid 1990s when Orgaman SPRL agreed to provide a loan and technical assistance to OKIMO, against exploration and exploitation rights in Concessions 38 and 39. For this purpose, Orgaman contracted with Border Energy, which has now become Moto Goldmines Ltd., a publicly traded company.

Regular messages of preliminary exploration successes have increased Moto Goldmines shares by about 100 per cent over the past 12 months.[4]

82. Moto Goldmines Ltd. describes its interests in the project with an area that covers approximately 5,000 km^2, but also states that current exploration activities are focused on only 35 km^2. The company further states that drilling of a total of 1,350 drill holes for 127,795 m (status as at September 2005) is conducted by the South African Geosearch International, and commenced in February 2004.

83. These robust industrial activities are welcome since they supply the Democratic Republic of the Congo with much-needed foreign investment and jobs. However, the partnership's practice of supplying the project sites with direct flights from Mwanza (United Republic of Tanzania) to Doko (Democratic Republic of the Congo) is not complying with international civil aviation rules and is discussed in the Civil Aviation section of this report.

3. The risks of inactivity in gold concession areas

84. Based on long-term observations, the Group is concerned about inactive concession areas that tend to be taken over by armed groups who in turn victimize artisan miners. As has been demonstrated in previous reports, it is from these involuntary relationships that the financing of arms embargo violations start. Additionally, the citizens of the Democratic Republic of the Congo have a right to obtain profits from its valuable natural resources and any joint venture partner who is not living up to its contractual obligation represents a loss to the economy of the State. Appropriately, the new senior management of OKIMO has initiated a thorough review of all its joint-venture partners and their compliance with contractual obligations.

4. Weakness of OKIMO management

85. The OKIMO management structure and its wide-ranging assets and activities are basically a remnant of colonial times and are far too complex to be properly controlled. An additional difficulty is that as a parastatal enterprise, OKIMO management appointments are politicized and do not ensure the most efficient and profitable running of the enterprise. These contradictions have left ample opportunities for interference and exploitation by armed groups and are now opportunities for anti-government and subversive actions against the official government of Kinshasa.

5. Embargo violations

86. Even though FARDC troops have deployed and pushed out illegal armed groups from most of the OKIMO concession areas, the parastatal enterprise is still struggling to regain full control over its operations. Shortly after military actions during October, the Group visited the area to assess whether embargo violators still utilize or abuse OKIMO operations.

87. The difficulty encountered on all levels of managerial activities is to objectively assess the extent of voluntary cooperation versus enforced collaboration

[4] See http://www.motogoldmines.com/investors.php. Moto Goldmines Ltd. is a publicly traded company and is listed as MTO at the Toronto Stock Exchange, the Australian Stock Exchange, as well as on German stock exchanges.

with illegal militias. An additional challenge is the fact that the OKIMO head office in Bambou was pillaged many times, and the company archives burned. OKIMO officials blame this on Colonel Anto of FNI-FRPI along with Commanders Tsera, Kabuli, and Thierry. Consequently, the lack of internal documentation prevents a thorough internal audit of the role played by OKIMO management during the occupation period. For example, the Group was not able to determine the precise relationship of Kiza Ingangi with the RCD or UPC. Mr. Ingangi headed the OKIMO office in Bunia throughout the various rebel occupations and remains in that position.

88. Despite the lack of internal OKIMO files, but thanks to FNI documentation obtained by the Group, it can be documented that FNI members were able to maintain or gain employment with OKIMO. The current OKIMO Chef de Poste in Mongbwalu, Uguti Wanitye, was also the Director of the Cabinet for the FNI-FRPI Commissariat aux Mines et Energy. In mid-November during the Group's investigation, Mr. Uguti was found to have employed Loche Na Gokpa on behalf of OKIMO who was the FNI-FRPI Conseiller Technique Chargé des Mines. Mr. Uguti has survived in the gold-sector of Mongbwalu through many different administrations and may be termed an "ex-OKIMO, ex-Kimin, ex-FNI" who again now works for OKIMO.

89. Based on the same FNI-FRPI documentation a complete picture emerges of how a parallel quasi-governmental structure was set up by the FNI in Mongbwalu. In addition to the military wing described in more detail in previous reports, FNI maintained a "Presidency" that was supported by an administration modeled on a conventional civil service with Ministers for the Interior, Mines and Energy, Education, Environment, Transport and Communication, and an agricultural service. The "Commissariat aux Mines et Energy" was responsible for the "Encadrement Général des Exploitants Artisanaux d'Or", which is a system for controlling artisan miners based upon a system set up by OKIMO. Authorization for Artisan Mining, issued by the FNI and FAPC that also entailed a well-defined taxation scheme is further evidence of quasi-governmental structures. The FNI budget for August 2004, for example, shows how taxation of the mining sector produced the largest official income for the FNI.

90. The subjugation of artisan miners by illegal militias has been documented with abundance by the Group and civil society groups. Remnants of disenfranchised artisan miners, although minor in comparison to past problems, still can be found. OKIMO management Bunia stated to the Group that before his departure to Kinshasa, Floribert Njabu left one of the artisan mining plots "Chantier: La Folie" to his "war wife" Bahati Anotani, related to the Chef de Groupement of Mabilindey. The plot was then run in partnership with the two FNI officers "Masasi" and "Khung-Fu". The current official artisan subcontractor, Mr. Meko, is still not able to regain his plot.

91. OKIMO accommodation were used by the FNI-FRPI leadership, and some FNI (political party) still remain in residence, including the Vice-President. The Mine of Adidi was run by the FNI and exploited by artisan miners who were charged a $1 entry fee and a tax of 30 per cent of their production on exit. According to the artisan miners still working in Adidi, production continues but most of the rock pillars that were left as internal roof supports have now been cut through, putting the whole mine at risk. In Nizi, artisan miners under the direction of the UPC dug up

and destroyed the main road while digging for gold there, but the rest of the OKIMO buildings and operations have been left relatively intact. In Northern Concession area 40 the group of Peter Karim and some Mouvement révolutionnaire congolais (MRC) elements remain active, possibly stealing timber from OKIMO concession lands, even though FARDC operations are being conducted. Finally, perhaps as much as 750 km of copper cables from the company's hydroelectric-driven power system have been removed and sold. According to many local OKIMO employees, the copper was shipped to Nakasongola ammunition factory in Uganda.

6. Ability of OKIMO to prevent further embargo violations

92. In practice, since the different waves of conflicts that have been fought in its concessions, OKIMO is a company that has the responsibility and the rights to mine gold, but does not have the capacity to do so in terms of management authority or access to capital. Additionally, the arms embargo has diminished the ability of the company and its joint-venture partners to secure its property rights by hiring and deploying its own armed security forces. As long as no enhanced security of the precious mineral assets of the Democratic Republic of the Congo is found, they represent to any armed group, warlord or criminal organization a ready catalyst for violence.

7. AngloGold Ashanti

93. Based on vigorous investigations of activities that AngloGold Ashanti is currently undertaking in Concession area 40, the Group has concluded that the violations reported in a previous report are isolated cases and are not a reflection of the company's overall corporate strategy.

94. One issue remains open in regard to internal documentation explaining how the company came to the decision that the security situation in December 2004 was sufficiently under control. When the company decided to deploy an exploration team into Mongbwalu, the timing turned out to be premature and militias had to be paid off in order to ensure the security of the company's local staff. The Group continues to be interested in predeployment research conducted by the company, in part to understand the contemporaneous positions held at the time by MONUC and the Government of the Democratic Republic of the Congo.

8. Concession area 38

95. The situation of artisan mining and sub-State actors has not been assessed in Watsa/Doko. MONUC and FARDC deny any illegal armed group activities and claim complete control over this area. This is supported by OKIMO, and explains the intense efforts by Moto Goldmines Ltd. to explore between five and seven concession areas.

C. Lueshe pyrochlor mine

96. Pyrochlor is a powder-like ore from which niobium (also called columbium) is extracted. The combination of niobium and iron creates the highly valued ferronobium super-alloy that is used for jet-engines, rocket subassemblies or any other application where heat-resistant and super-hardened machinery parts are needed. Lueshe mine in North Kivu has the only known significant deposits of high-

content pyrochlor. The mine has been operated during most of the past 20 years although under questionable circumstances by the Société Minière du Kivu (SOMIKIVU). This partnership was formed in 1982 between the majority shareholder Gesellschaft für Elektrometallurgie,[b] the Ministry of Portfolio of the Democratic Republic of the Congo, and minority investors and employees.

97. During peak production times, it employed up to 3,500 workers, provided schooling to local children, medical care to local people in its own hospital, and a variety of other social services. As a result of hostilities in the early 1990s, Gesellschaft für Elektrometallurgie withdrew, declared force majeure, and because of a risk insurance settlement of approximately 8 million euros, the Ministry of Trade became a co-owner of SOMIKIVU. During an extended period of inactivity, an Austrian mining company established in Kinshasa the enterprise Edith Krall Consulting, which gained exclusive rights to the Lueshe pyrochlor deposits from President Laurent Désiré Kabila. Although Gesellschaft für Elektrometallurgie, the original owner, has ignored its responsibilities since it cashed in the insurance settlements, it has tolerated its manager Karl Heinz Albers' pretence be the owner of the Lueshe mine, while the new property owners Edith Krall Consulting have attempted to take over the operations.

98. On 14 July 2000, Albers restarted the operations at Lueshe based on a pact he had made with the rebel group RCD, later RCD-Goma. The incentive to restart was his illegal claim to ownership and an alleged lifelong exemption of any duty to pay taxes or customs duties.

99. Very quickly, RCD started to object to the alleged tax privileges, and administrative "failures" occurred, e.g., the Goma office of the customs authority OFIDA blocked for the entire month of March 2001 the importation of citric acid. Without this substance Lueshe cannot produce pyrochlor and it incurs financial losses because of inactivity.[c] On 21 June 2001, RCD informed SOMIKIVU that the general tax waivers no longer applied, and that $200 per ton of exported pyrochlor was due. On 19 December 2002, Eugène Serufuli Ngayabaseka, the Governor of the North Kivu Province, declared SOMIKIVU to have a past due balance of $86,400 resulting from unpaid export duties. He would instruct his Chef de Division Provinciale des Mines et Géologie of North Kivu and other border control authorities of Goma to stop preparing export documentation until the company had settled its debts. On 15 January 2004 the Provincial Director North-Kivu of DGRAD, another border control authority, requested from SOMIKIVU within seven days payment of $102,643.20 for unpaid export taxes, late fees and fines.

100. Owing to frequent interruptions of the mining process or calamities with the exportation of pyrochlor caused by the obstructive provincial government, poor management and escalating consequences from the property rights dispute with Edith Krall Consulting, SOMIKIVU, which had been a profitable enterprise, became a heavy liability to Albers. Julien Boillot, the Chief Financial Officer of the company, resigned abruptly. The provincial authorities put the technical director of SOMIKIVU under house arrest, allegedly because of unpaid bills. When Albers

[b] Gesellschaft für Elektrometallurgie is 100 per cent owned by Metallurg Inc., a New York-registered company that ultimately is wholly owned by a group of investors led by and including Safeguard International Fund, L.P., an international private equity fund.

[c] Letter from SOMIKIVU to the Minister of Mines, dated 12 February 2002.

returned from Europe, he, too, was arrested, imprisoned and confronted with the mounting bills of local suppliers.

101. The systematic degradation of Albers' management came to a head when Makabuza Ngoga took the lead in prosecuting claims against SOMIKIVU. Mr. Makabuza, better known as Mode Makabuza, is a powerful Goma-based businessman allied with Governor Eugène Serufuli, and closely affiliated with the sanctioned civil society group IPD. On 29 March 2004, Albers was left with no choice but to sign a power of attorney giving Mr. Boillot, his former chief financial officer, complete control over SOMIKIVU. A few days later, on 3 April 2004, Mr. Boillot signed his rights with another power of attorney over to Mr. Makabuza.

102. Ever since, Mode Makabuza has been serving as President of the Board of SOMIKIVU, and Celestin Vunabandi Kanyamihigo, the Minister of Portfolio in Kinshasa, appointed him as the President of a "Comité de crise". By the same letter, another associate of Mr. Makabuza, Dunia Safari, was named Directeur de l'Usine. Although the pyrochlor production stopped even before the violent takeover owing to unresolved supply and sales issues, Mr. Makabuza confirmed to the Group that he had been able to produce, sell and export approximately 20 tons of pyrochlor — with a market value of roughly $100,000.

103. The Group of Experts is concerned about the inability of the authorities of the Democratic Republic of the Congo to settle the property dispute and all its related legal actions that have been raging since 1999 between Edith Krall Consulting, the original owners, and Karl Heinz Albers. It is also concerned about the dismal exercise of ownership responsibility by Gesellschaft für Elektrometallurgie and the Ministry of Trade of Germany.[4] The combination of these factors has rendered the entire mining operation at Lueshe inactive over long stretches of time instead of benefiting the economy of the Democratic Republic of the Congo or providing good jobs to Rutshuru's population.

104. There is also concern that the modern facilities and convenient residences of Lueshe are frequently abused by rebels and renegades as a retreat. There are numerous reports by former employees, MONUC and Edith Krall Consulting[5] that at various times during the summer of 2004 Jules Mutebutsi and Laurent Nkunda stayed at the mine. On 12 December 2005, Colonel Kasikila, the commander of FARDC's 5th brigade, swept 33 men from General Laurent Nkunda's group from the Lueshe mine. According to the Colonel, Nkunda's people, all of them armed, had been based at the Lueshe mine.

105. Finally, Governor Serufuli's assumption of control in questions related to Lueshe demonstrates his disregard for the Transitional Government's authority. Towards the end of his campaign to oust Albers, Mr. Serufuli was repeatedly informed by Kinshasa's authorities that SOMIKIVU does enjoy tax exemptions and that his provincial administration should not interfere with responsibilities of the central Government. At the time this report was finalized in early December, Krall informed the Group that Governor Serufuli through the border authorities of North Kivu is blocking the entrance to the Democratic Republic of the Congo at the Bunagana border post of trucks that the Austrian firm, Edith Krall Consulting, sent

[4] In a letter dated 7 December 2005, the Government of Germany announced a review of options for a responsible disposition of the Lueshe property.

[5] Krall Metal Congo SCARL.

to Lueshe. Krall intends to open and operate Lueshe, but apparently the Governor is now insisting on additional documentation.

D. Non-disclosure practices by neighbouring States

106. The previous report of the Group described how many financial aspects of embargo violations could be prevented if neighbouring States of the Democratic Republic of the Congo imposed more scrupulous controls over the mainly illegal importations of natural resources into their countries. Instead of cooperating with the Group, some of those States prefer to frustrate and thwart each inquiry with deceptive information.

107. In particular, responses by the Government of Uganda in respect to its gold trading industry, and replies by Rwanda in respect to cassiterite and tin ore transactions are not only erroneous but lack basic logic that cannot be solely attributed to lack of capacity. A few hours of work by Ugandan and Rwandan officials, for example through the collection of data from the relevant companies involved, would immediately reveal the inconsistencies in the information supplied thus far to the Group. Consequently, the Group concludes that in this regard, the information supplied by the Governments of Uganda and Rwanda is unreliable.

E. Radioactive material

108. After the collapse of the former Shinkolobwe uranium mining site in July 2004, during which 8 people died and 13 were injured, the Government of the Democratic Republic of the Congo focused further on issues related to radioactive material. In subsequent investigations by various United Nations bodies, it was discovered that despite the issuance of a presidential decree on 28 January 2004 against all artisan activities at Shinkolobwe, low technology exploitation of the mining site had continued at an unabated pace. In the light of this, and because of ongoing concerns over insufficient border controls and the haemorrhaging of border-generated revenue, the Ministries of Mining and Finance agreed to jointly pursue a project to improve the efficiency of export controls of all precious minerals. After a bidding process, an international assayer was contracted to conduct border checks on quality, quantity and radiation of all exported precious minerals.

109. As a result, a pilot project in Katanga Province was initiated. OFIDA increased its monthly revenue from $50,000 to $300,000. Despite these demonstrable improvements, the exclusivity of the contractor's role and with that his efficiency was undermined when the Ministry of Mines was replaced, and a new, local assayer from Lubumbashi by the name of Labo Laboratories was also authorized to conduct the export controls. As a result, the quality of the testing programme decreased significantly, the original contractor soon withdrew and a number of States in southern and eastern Africa have discovered smuggled quantities of minerals with intolerably high levels of radioactivity. This has left the affected States no choice but to request the assistance of the International Atomic Energy Agency (IAEA) to deal with the difficult and costly task of securing and safely storing these materials. The international community should remain vigilant and investigate the matter further.

F. Follow-up on the Ituri gold trade

110. Based on its previous report (see S/2005/30, paras. 118, 126-130) about the gold trading and refining activities of Dr. Kambale Kisoni, Butembo Airlines, Uganda Commercial Impex Ltd., Argor-Heraeus SA, Hussar Services, and Hussar Ltd., the Group invited Argor to present evidence of its efforts to comply with Security Council resolution 1596 (2005), and in particular, paragraph 15.

111. The Group further requested information in regard to continued refining activities of gold originating from the Democratic Republic of the Congo, from the Republic of Uganda or any other Central African State.

112. In its response, dated 27 October 2005, Argor-Heraeus did not provide documentation, as requested, on its relevant refining or related services performed since 25 January 2005. However, the company did provide documentation about its due diligence efforts with two letters: the first one, dated 3 June 2005, was written by Uganda Commercial Impex to Jonathan Graff of Hussar Ltd., and the second letter, dated 8 June 2005, was written by Argor-Heraeus to Hussar.

113. The Group believes that this correspondence completes the chain of evidence for sanctionable activities. All the parties involved in the gold transactions starting with entities and individuals based in Ituri, Uganda, Switzerland and the United Kingdom have acted against paragraph 15 of resolution 1596 (2005). The evidence is built around the fact that there was ample warning that some of those gold transactions might be sanctionable. There were the above-referenced descriptions in the report (S/2005/30) that became public on 25 January 2005 and the possible problem with gold originating from Uganda, which had already been noted in the interim report (S/2001/49). Finally, paragraphs 70 to 80 of the report of the Group (S/2005/436) proved that the gold transactions were being undertaken even after the adoption of resolution 1596 (2005), in particular its paragraph 15.

G. Observations

1. Power vacuums open opportunities for embargo violations

114. While in recent months determined military actions by FARDC, supported by MONUC, have diminished the threats to peace and security by illegal militias and warlords in Ituri and the Kivus, the underlying problems that have fuelled the wars of Central Africa are far from settled. As long as an ounce of refined gold fetches over $400 while a used Kalashnikov firearm can be bought for less than $40, the incentives to acquire control over the Congo's resources by violent means will be overpowering. In addition, most mining areas in the eastern provinces have remained largely unprotected, even after the deployment of regular government troops into the eastern provinces. It is obvious that a few poorly fed and irregularly paid FARDC soldiers guarding the gold mountains of Ituri cannot be an effective deterrent to those who wish to plunder the country.

2. Precious minerals as financing of embargo violations

115. The study into the operations of OKIMO demonstrates that violations of the relevant Security Council resolutions will likely continue if the OKIMO properties are not secured by FARDC or MONUC.

3. The new paradigm of embargo violations

116. In the new phase of the war for the nation's wealth, methods have shifted from violence to surreptitious strategies. Local potentates, current and future warlords, militias or criminal groups usurp the economic backbone of the country by emulating traditional governance structures. Illegal groups impose authority by appointing individuals who act as quasi-governmental figureheads, but who in reality extort taxes, fees and duties. Thanks to the steady stream of revenue, these groups can entrench themselves, install a regime of fear, and commit serial violations without ever having to touch a gun. The international community needs to adjust to these new realities and develop appropriate responses.

II. Recommendation: enhanced traceability system and its requirements

117. As the very recent example of smuggling of radioactive material demonstrates, there is an urgent need for better controls over precious minerals and resources, and in particular over the illegal diversion of gold, tin ore, cobalt, or copper, to enhance the economies of the Democratic Republic of the Congo and other countries of the Great Lakes and protect regional peace and security. In the light of this, and as touched upon during the previous mandate of the Group, the concept of an advanced traceability scheme for precious minerals was further refined. The Group has also cooperated with the International Conference on the Great Lakes Region, headed by a Special Representative, Ibrahima Fall.

118. The Group proposes a pilot study approach that may serve in support of the long-range planning of the International Conference but is designed for short-term implementation in the Democratic Republic of the Congo. In technological terms, the scenario encompasses a network of laboratories that will have to be organized with a sufficient testing capacity to identify chemical properties for each mining site in the region, and eventually, for each consignment ready for export. As such, it will be possible to match each export with entries in a regional database that identifies chemical markings unique to each extraction site in the region. More specifically, the matching system will confirm whether a shipment of precious minerals comes from a legal source or not. On the political side, the system requires the adoption by the countries in the Great Lakes region of a certification system, whereby valid "certificates of origin" for precious mineral resources originating from the Democratic Republic of the Congo become mandatory.

119. A regional not-for-profit organization could be proposed as the technical backbone for this traceability system. This could be funded and managed by representatives of the regional extractive industry. This organization would be responsible for the following technical tasks:

(a) Establish a master database identifying the chemical properties that are unique to each extraction point in the region. This database would serve as a central reference tool against which samples taken from each export consignment could be cross-checked, and identified. The proper selection of sample extraction sites would have to be guided by geologists in the area. This will require the help of senior geologists of concessionaires currently active in and knowledgeable about deposits in the region.

(b) Expand and update the database as concessions for new extraction sites are granted.

(c) Select, train and maintain necessary staffing for the operation of the laboratories and the maintenance of the database. Specialized interlocutors would be necessary to serve in all authorized bodies that are in charge of investigating or preventing embargo violations and illicit cross-border movement of goods. These employees should, to the extent possible, be recruited from the region.

(d) Organize the existing laboratory and analytical capacity currently operational in the region to perform the required testing services. Where this capacity needs augmentation, it should be provided by the participating companies. This is not an unreasonable demand considering that the following tools are already installed and in use in laboratories of existing extractive industries in the region. The precise specifications required to conduct the desired sampling will have to be defined by experts, but commonly involve:

(i) A wavelength dispersive X-ray fluorescent unit (at a cost of between $100,000 and $150,000);

(ii) An inductive coupled plasma unit (at a cost of about $80,000 to $120,000); or

(iii) An atomic absorption spectrometer.

(e) Categorize all extraction points in the Democratic Republic of the Congo for the relevant precious minerals and all refining facilities in the region to determine strategic bottlenecks where sample testing of export consignments can be conducted in the most efficient manner.

(f) Ensure the highest integrity of the system in all aspects, and guarantee its independence from corporate or governmental influence.

120. That organization would have to be supported by the following political commitments made by the Governments of States in the region.

(a) Full State cooperation with this scheme would include the proper training of border-control agents in all aspects relevant to the successful implementation of this system.

(b) Governments of the participating States would have to assure the most effective exchange of information in order to maintain the efficacy of the system.

(c) Governments should dedicate policing capacity to sharing information and dealing with attempts to smuggle precious minerals.

(d) Attempts to undermine or corrupt the system should immediately be referred to judicial authorities of the affected States.

(e) Governments of the States in the region will have to demonstrate resolve in dealing with wrongdoing by revoking any concession and business licence of an enterprise that is found to be wilfully smuggling precious minerals.

V. Civil aviation

A. Overview

121. With respect to civil aviation, the Group of Experts sought to identify the possible channels used to supply and distribute arms and continued its inquiries on the ground to flesh out the practical cases already detected of non-compliance with the provisions of Security Council resolutions 1596 (2005) and 1616 (2005).

B. An approach for identifying supply lines

122. The Group of Experts sought to identify, on the basis of potential sources, all the charter cargo flights to the Great Lakes region since the arms embargo was imposed in the Democratic Republic of the Congo. The Group of Experts used air traffic records from the European Organization for the Safety of Air Navigation (Eurocontrol), which is responsible for monitoring air navigation in European airspace, from the Agence pour la sécurité de la navigation aérienne en Afrique et à Madagascar, which provides air traffic services on the African continent and in Madagascar, and to a lesser extent, from the States concerned.

123. Flights to Africa generally follow the same routes to Benghazi or Tripoli in the Libyan Arab Jamahiriya, Larnaca in Cyprus, Cairo or Luxor in Egypt, or Khartoum in the Sudan. The aircraft then fly to the Great Lakes region and back. Such itineraries make it difficult to trace the flights at the outset.

124. The investigation revealed that considerable quantities of firearms and ammunition entered the region by air and that the documents on board aircraft carrying arms and ammunition did not always include an authorization to ship dangerous materials.

125. As regards flights between the Democratic Republic of the Congo and neighbouring countries, the absence of traffic control in the airspace of the eastern part of the country and, above all, the lack of civil aviation safety oversight made it impossible to identify specific flights which might be transporting weapons.

126. In conclusion, the Group of Experts would be able to trace the routes followed for every shipment of arms and ammunition from supplier countries if the latter agree to cooperate.

C. Status of implementation of the measures imposed by the resolutions

127. With respect to the implementation of the measures and recommendations on civil aviation contained in Security Council resolutions 1596 (2005) and 1616 (2005), the Group of Experts did not note any significant progress in the Democratic Republic of the Congo. During its inquiries in the Kivu provinces and the Ituri district, the Group continued to uncover violations of the provisions of those resolutions.

1. Insufficient air safety oversight

128. Between 21 July 2004 and 4 October 2005 there were 23 aviation accidents in the Democratic Republic of the Congo due to technical failures, human error and poor preparation for the flights.

129. Owing to the frequency of these accidents, the new Minister of Transport set up a commission to monitor the issue of licences to airlines operating in the Democratic Republic of the Congo. According to the commission, 75 per cent of planes flying in the Democratic Republic of the Congo are over 30 years old and are not properly maintained. Only 19 of the some 50 airline companies investigated were approved to have their operating licences renewed for 2005 under decision No. 416/DAC/TC/SEC/2005, and some of those were required to address certain deficiencies within three months in order to be declared fit to operate.

130. The companies in question are: Hew Bora Airways (Hba), Malila Airlift, Wimbi Dira Airways, Air Kasai, Business Aviation, Malu Aviation, Espace Aviation Services, Air Tropiques, Air Navette, TMK Air Commuter, Air Beni, Gomair, African Company Airlines (ACA), Central Air Express, Filair, Compagnie Africaine d'Aviation, Africa One, International Trans Air Business (ITAB) and Virunga Air Charter.

131. A large number of companies were prohibited from operating because they did not comply with the regulations in force. They include: Global Airways, Setraka Airways, Traco, Ecotraf, New Kivu Airways, Executive Airways, Cargo Bull, Bleu Airlines, Transair Cargo, Katana Air, Air Service, Full Service, Flight Express, Waltair, Uhuru Air, Service Air, Gloria Airways, Wetrafa Air, Butembo Airlines, Great Lakes Business Company (GLBC) and Compagnie aérienne des Grands Lacs (CAGL).

2. Violations with respect to monitoring of aviation in the Democratic Republic of the Congo

132. Investigations on the ground again focused on the Kivus and the Ituri district. During its visit to the Kivus and the Ituri district, the Group of Experts met with civil aviation authorities and MONUC officials and collected traffic records and information on the airline companies operating in the region, their fleets and their activities.

133. The Group of Experts also met with representatives of the airlines to learn about their activities and the level of security on their flights. The various investigations uncovered operating irregularities and grave shortcomings in the monitoring of the arms embargo.

D. Violations committed by aircraft with total impunity

1. Aircraft use of non-customs airfields to enter or leave the Democratic Republic of the Congo

(a) Antonov 8 S9-DBC flies from Kongolo, a non-customs airfield in the Democratic Republic of the Congo, to Nairobi

134. In the course of its investigations in Goma, the Group of Experts became interested in an Antonov 8, registered as S9-DBC in the Democratic Republic of Sao Tome and Principe, which has been operated since April 2005 by Luft Cargo, a Goma-based charter company.

135. During its second mandate the Group of Experts had had occasion to conduct inquiries into this company in relation to the matter of uniforms delivered to Goma on 14 August 2004.

136. This company is represented by Sosthene Songolo, former Chief of Operations for Compagnie aerienne des Grands Lacs (CAGL), to which the Group of Experts referred in a previous report, in relation to its activities in violation of the embargo.

137. According to the air traffic records of the air traffic control authority, Regie des voies aeriennes (RVA), in Goma, the Antonov 8 S9-DBC left Goma for Kongolo, in Maniema province, on 28 October 2005. It took off from Kongolo for Nairobi on the same day to renew its airworthiness certificate, without passing through a customs airport. Since Kongolo is a non-customs airport in the Democratic Republic of the Congo, the aircraft violated the regulations on the entry and stay of aircraft in the Democratic Republic of the Congo, and the Congolese authorities failed to respond in accordance with the measures set forth in Security Council resolution 1596 (2005) and reiterated in Security Council resolution 1616 (2005). Mr. Songolo has steadfastly declined to meet with the Group of Experts to explain this violation.

138. The registration certificate of this aircraft was issued by the Democratic Republic of Sao Tome and Principe on 27 October 2004 in the name of SIMAX LLC, a company based in Salem, Oregon (United States of America). SIMAX LLC is represented by Alexander Radionov, an aircrew member based in Nairobi. Mr. Radionov also works with Pusk Limited (Branch) in Sharjah (United Arab Emirates), which is run by Gleb Fomin, apparently the current owner of the Antonov 8 S9-DBC.

139. Mr. Radionov has refused to provide the Group of Experts with details about the ownership of this aircraft and the aircraft's flight from Kongolo.

140. Lastly, the Group of Experts has learned that previously the Antonov 8, then registered as 9L-LEO in Sierra Leone, had been operated by the Kisangani-based airline Kisangani Airlift.

(b) The aircraft 9Q-CAX belonging to Butembo Airlines flew from Mwanza (United Republic of Tanzania) to Butembo, a non-customs airport located in the Democratic Republic of the Congo

141. The Group of Experts documented a case similar to the one described above, during its visit to Mwanza airport in the United Republic of Tanzania. Upon examination of the airport's air traffic records, the Group of Experts noted that the Butembo Airlines Antonov 28 had flown on 28 December 2004 from Mwanza to

Butembo (Democratic Republic of the Congo). Since the latter is not a customs airport, this flight appears to be a violation of the regulations on the entry of aircraft to the Democratic Republic of the Congo, and consequently, this company and its pilot should be subject to penalties.

(c) Flights operated by Kilwa Air directly from Mwanza (United Republic of Tanzania) to the non-customs airports in Doko (Democratic Republic of the Congo), or from Entebbe (Uganda) to Doko and Mongbwalu

142. More than 90 flights operated by Kilwa Air, which also uses the air rights of the Tanzanian airline RENAIR, were flown on a regular basis directly from Mwanza to Doko, and a flight was operated from Entebbe to the Mungwalu mining area in Ituri for Borgakim and Moto Gold Mines, which are mining companies that own concessions in those regions. One of these flights, en route to Doko, was picked up on the MONUC frequency and forced to land in Bunia, which is a customs airport.

143. According to the Ugandan air authorities, flights from Entebbe airport to the Democratic Republic of the Congo routinely submit flight plans indicating customs airports as their destination. However, it is quite possible for such flights to deviate from their route without the Ugandan authorities' knowledge, owing to the deficiencies in the monitoring of Congolese airspace. The Group of Experts believes this to be untrue, since in the course of its investigations it obtained copies of flight plans submitted in Entebbe by Kilwa Air planes, indicating Doko and Mongbwalu as their destinations. These flights had been duly logged by the runway official at Entebbe airport, as confirmed by the stamp.

2. Airlines operate in the region without a licence

(a) Ruwenzori Airways

144. During the course of its investigations in Bunia, the Group of Experts met, on 4 November 2005, with the management of a company recently set up in the city by the name of Ruwenzori Airways. Founded on 20 November 2001 by Paloukou Katheke, Mahanbo Ngoima Claude and Moutokambali Ophen, all of whom are Congolese nationals, it has three planes registered in Kenya: a Cessna type TU 206F and a Piper 32-300, based in Bunia, and a Let 410, based in Goma. The headquarters of the company is in Goma, but it has offices in Beni, Kisangani, Isiro, Bunia, Aru, Mongbwalu, Watsa (Durba) and Mahagi. This company employs two pilots (an Egyptian national and a British national).

145. In May 2001 the Front de libération du Congo (FLC), which then controlled the region, issued an operating licence to Ruwenzori Airways in return for the right to use its services. In order to regularize this situation, the company's management recently had its aircraft checked by inspectors from the provincial Civil Aviation Directorate in Kisangani.

146. After carrying out a formal inspection, the inspectors did not immediately issue the company with a provisional operating licence that would have enabled it to resume its operations. Ruwenzori Airways nevertheless continues to operate its aircraft illegally with the licence issued by FLC, which is no longer valid.

(b) Butembo Airlines

147. The Group of Experts discovered from the daily air traffic records of Mongbwalu airport that the Antonov 28 registered as 9Q-CAX made 77 flights to Mongbwalu between August and October 2005, including 64 from Bunia. This aircraft is operated by Butembo Airlines.

148. The Group of Experts requested from the representative of Butembo Airlines in Bunia all the cargo manifests for his company's flights to Mongbwalu. The representative was unable to provide these documents and stated that the company's Antonov 28 had only rarely made direct flights between Bunia and Mongbwalu. This contradicts the information discovered by the Group of Experts in the Mongbwalu register.

149. The local representative in Bunia of the civil aviation authority, the Direction de l'aéronautique civile (DAC), informed the Group of Experts that Butembo Airlines did not have a licence to operate cargo flights out of Bunia. The cargo flights by Butembo Airlines from Bunia to Mongbwalu are therefore in contravention of the relevant regulations.

150. It should also be recalled that in its previous reports the Group of Experts described Butembo Airlines' links with militia of the Front des nationalistes et intégrationistes (FNI) as well as its participation in illegal gold trafficking.

151. The office of the representative of Butembo Airlines in Bunia is a *comptoir* for purchasing gold. The representative informed the Group of Experts that he buys gold from artisanal gold miners and then sells it on to gold *comptoirs* in Bunia.

152. The Group of Experts has also learned from several sources that Butembo Airlines also transports gold to neighbouring countries on behalf of middlemen. The Group of Experts has not been able to verify this information. However, during its visit to Mwanza airport the Group noted, from the daily air traffic records of the customs service and the airport's air traffic services, that the Butembo Airlines Antonov 28 had made direct flights between Butembo and Mwanza. The customs service at Mwanza airport has promised to monitor the movements of this aircraft from now on and to keep the Group of Experts informed during any future mandate.

3. Aircraft captains are not fulfilling their responsibilities

153. Shortly after the incident involving the FARDC Antonov 12 at Aru airport, an aircraft belonging to Ruwenzori Airways, en route from Bunia to Mahagi, landed at Aru even though the runway was partly blocked. Since the plane appears to have had no reason to land under such conditions, the incident should have been recorded and the pilot penalized. The lack of qualified agents at the airport has fostered a failure to apply the regulations on the recording of violations.

4. Airlines whose operating licences have not been renewed continue to fly in the Democratic Republic of the Congo

154. In the Goma airport air traffic records, the Group of Experts found references to three planes belonging to the Great Lakes Business Company (GLBC), the Antonov 12 registered as 9Q-CGQ, the Antonov 32 registered as 9Q-CMG and the Antonov 32 registered as 9Q-CAC, which continued to fly from that airport during the month of November 2005. From their base in Goma, these aircraft made flights

throughout the eastern part of the Democratic Republic of the Congo, often making several round trips per day. The Group of Experts has a copy of a DAC decision listing the airlines whose operating licence has been renewed, and the list does not include GLBC.

155. The same is true of CAGL. In fact, the Group noted in the RVA air traffic records that one of these aircraft, an Antonov 32 registered as ST-AQU, landed at Goma airport on Thursday, 1 December 2005, having begun its flight at Lubao. The air traffic controllers in Goma, on being questioned by the Group of Experts, confirmed that this aircraft had been grounded in Lubao for some time because of technical problems.

E. Operating irregularities

156. Airports are open to public air traffic without being officially authorized, making their operations dangerous. The incident involving the FARDC Antonov 12 was due to the lack of authorization of Aru airport.

157. On 4 October 2005 an Antonov 12 belonging to Wimbi Dira Airways, registered as 9Q-CWC and chartered by FARDC to transport 102 armed soldiers suffered damage while landing on the runway at Aru. The aircraft's undercarriage broke apart, causing very significant physical damage. Because of the gradient of the runway at Aru, the landing distance was insufficient for this type of aircraft, which is not equipped with an air brake. By straining the landing gear the pilot broke it, thus leading to all the other consequences.

158. The Antonov 12 was still on the runway shoulder, almost half-way along the runway, partially blocking use of the runway along its entire length.

F. Serious shortcomings that make it difficult to monitor the arms embargo

MONUC is denied access to FARDC aircraft in carrying out its mandate

159. During its investigations on the ground, the Group of Experts became interested in certain military flights, not because they failed to comply with the rules of the Convention on International Civil Aviation (since such flights do not fall under that category, especially if they are operational) but in terms of compliance with the arms embargo. Military flights often transport military equipment, which may be distributed to parties subject to the embargo, unbeknownst to MONUC.

160. The Group of Experts noted in Bukavu that the oversight exercised on military aircraft is very limited. For example, two helicopters of the Congolese Air Force (FAC) landed at Bukavu airport coming from Kindu on 7 July 2005. The movements of these helicopters — an Mi-26 registered as 9T HI5 and an Mi-8 registered as 9T HM7, were followed by three flights made by an FAC-owned Antonov 26 registered as 9T TAE, which had flown from Lubumbashi.

161. From Bukavu the helicopters made a number of flights in South and North Kivu whose exact destinations were not always known. MONUC has not been able to provide information about their activities. While it is not suggested that civil aviation rules should be imposed on military flights, it must be recognized that such aircraft may be used to supply weapons to troops or militia subject to the embargo.

162. On 13 October 2005 an Antonov 26 registered as 9Q-CLA chartered by FARDC landed at Beni airport at 12.10 p.m. from Kisangani. The aircraft was immediately directed towards the military terminal, which was strongly guarded by FARDC troops. MONUC observers, who wished to check the contents of the aircraft and its use, were denied access to the aircraft. However, they were able to observe that some cases of ammunition were unloaded from the aircraft and transported to a military camp. During a subsequent meeting with FARDC, the military observers were informed that they would not be allowed access to FARDC aircraft on operational flights. This stance makes the monitoring by MONUC of compliance with the embargo problematic since the embargo also applies to the distribution of FARDC weapons with a view to ensuring that they are not delivered to forces not yet integrated or to groups subject to the embargo.

163. The Group of Experts considers that this state of affairs is contrary to paragraphs 2, 3 and 4 of Security Council resolution 1596 (2005). In accordance with the provisions of those paragraphs, it is perfectly in order that MONUC should monitor the distribution of weapons and related equipment, even when FARDC is doing the distributing.

G. Observations

164. In view of the above, the Group of Experts wishes to make the following observation: the monitoring of Congolese airspace, especially in the eastern part of the Democratic Republic of the Congo, has scarcely improved since the Group of Experts submitted its previous report.

165. It is a well-known fact that the air traffic control authority, Régie des voies (RVA), which is the body designated by the Democratic Republic of the Congo to be responsible for air traffic services in its airspace, lacks air-to-ground communication equipment. Some aircraft take advantage of this and circulate in this region without bothering to contact an air traffic control centre or follow the filed flight plan.

166. The division of the airspace could also become a potential source of failure to respect the measures set forth in Security Council resolution 1596 (2005). For example, the airspace above Ituri is divided in such a way that Mahagi airport is located in the flight information region of Entebbe and as such, can be used by aircraft at the sole discretion of the Entebbe Flight Information Centre. In fact, aircraft flying from the east to Mahagi, which is a non-customs airfield in the Democratic Republic of the Congo, are required to make radio contact only with the Entebbe Flight Information Centre. Traffic records for the Entebbe flight information region show that many aircraft coming from Uganda and even from Kenya land at Mahagi.

167. Lastly, the sharp increase in traffic at the Bunia airport and the difficulties caused by traffic from Bunia crossing paths with aircraft flying over the area and aircraft in the airspace above Aru, Arua, Mahagi and Beni further complicate the already disturbing situation of civil aviation in this region.

H. Recommendation

168. To overcome these problems, while rebuilding the capacity of RVA, which was the body responsible for monitoring air traffic in the airspace of the Democratic

Republic of the Congo before it was destroyed in the war, the Congolese authorities might find it helpful to designate MONUC to be responsible for air traffic services in the eastern part of the country. Nearby control centres would therefore be obliged to coordinate all traffic entering and leaving their airspace with MONUC, which would strengthen air traffic monitoring in this region.

VI. Publication of the Security Council sanctions list

169. On 1 November 2005 the sanctions Committee published the list of individuals and entities subject to sanctions. The Group of Experts has received favourable feedback about the list, notably from leading political figures, but also from civil society.

170. The list has, of course, also caused displeasure among certain groups, such as the non-governmental organization Tous pour la Paix et le Développement (TPD), which is based in Goma, North Kivu. According to TPD, it addressed a strong protest to the President of the Security Council on 7 November 2005. In addition, 200 people demonstrated in front of the MONUC offices in Goma in support of TPD on 3 November 2005. Two other individuals included in the list, Douglas Mpamo, Director of the Goma-based airline Great Lakes Business Company (GLBC), and James Nyakuni, a Ugandan businessman based at Arua, have also voiced strong displeasure at their inclusion.

171. As regards TPD, the Group of Experts conducted further investigations in Goma which tend to confirm collusion between TPD, on the one hand, and the General Directorate for Immigration and the National Intelligence Agency, on the other.

172. As soon as the list was published, the Group of Experts attempted to strengthen its contacts with certain Governments in the region and certain financial institutions. These Governments and institutions were invited to cooperate with the Group of Experts with a view to tracing the assets of the individuals and entities subject to sanctions. The Group of Experts is currently engaged in informal correspondence with certain bankers, heads of companies and administrators of mining concessions.

173. The Group of Experts also sent letters through the official channels to the Governments of the Democratic Republic of the Congo, Uganda, Rwanda, Burundi and Germany on 9 November 2005, and also to Mr. Serufuli, the Governor of North Kivu on 15 November, in order to ascertain whether certain of the individuals or entities subject to sanctions were listed in the trade register or register of shareholders of one or more companies registered in their country; were beneficiaries of bank accounts in their country; were owners or co-owners of concessions on natural resources, including minerals and timber; were owners or co-owners of land, air or lake transport vehicles; were owners or co-owners of real estate; or were receiving subsidies, pensions, emoluments or other financial income from the administration of their countries.

174. The Group also sent letters with similar content to a number of countries in the region, including Angola, the Central African Republic, Kenya, the Republic of the Congo, the Sudan, the United Republic of Tanzania, Zambia and Zimbabwe, to

request that they should increase their vigilance with regard to the application of the sanctions.

175. Thus far, only Germany and Governor Serufuli have replied to the Group. According to investigations conducted by the German authorities, no individual subject to sanctions, including Dr. Ignace Murwanashyaka, possesses financial assets in Germany.

176. As regards the reply from Mr. Serufuli, he has informed the Group that TPD opposes its inclusion in the list and has provided a series of documents. The documents do not contain the financial information requested by the Group of Experts.

177. Lastly, the Governor has stated that he is unaware of Mr. Mpamo's current occupation and that General Nkunda went into hiding after the international arrest warrant was issued against him.

VII. Cooperation between the States of the Great Lakes region and the Group of Experts

178. Cooperation with the States of the Great Lakes region is improving but remains unsatisfactory in certain respects. Although notes verbales and questionnaires were sent to the Governments several weeks prior to the Group's visit, the Governments were not always prepared when the Group arrived and the requested documentation was seldom provided on time.

179. With regard to civil aviation, the Group of Experts is still struggling to obtain air traffic records for the Kigali, Entebbe and Kinshasa airports. Certain countries and companies are equally reluctant to cooperate fully with the Group, notably with regard to providing air waybills and other appropriate documents.

180. With regard to the Democratic Republic of the Congo, the Group of Experts has on several occasions asked to see the inventory of weapons acquired legally since the imposition of the embargo. This information would enable the Group to identify the origin of the weapons held by the various armed groups and identify those acquired in violation of the embargo.

181. The cooperation received from the aviation authorities in Kinshasa was not all that the Group had hoped for. The Group did not always receive the requested documentation, including the traffic records for Kinshasa, the aviation accident reports and a response to the questionnaire contained in the note verbale sent to the Democratic Republic of the Congo at the beginning of the mandate. The requested meetings with the civil aviation authorities in Kinshasa, including the Minister of Transport, the civil aviation authority (DAC) and the air traffic control authority (RVA), were not organized.

182. With regard to Rwanda, despite repeated requests, the Group of Experts has still not been granted access, for the purposes of verification and inventory-taking, to the weapons seized by the Rwandan authorities from Colonel Mutebutsi and his men following the events that occurred in Bukavu in May and June 2004.

183. With regard to civil aviation, the Group managed to obtain air traffic records from Kigali airport for 2004 but not for 2005. Claiming that it cannot provide

information and documentation without government permission, the airline company Silverback has been reluctant to provide the Group of Experts with copies of air waybills and other documents which are required when shipping arms and ammunition, such as authorizations to ship dangerous materials.

184. Despite its assertions, the Rwandan Government has not yet replied to all of the Group's questions, preferring instead to share incomplete information of lesser or no interest. The Rwandan Government has decided that it will grant the Group access to the weapons seized from Colonel Mutebutsi only on condition that MONUC sends it a list of the weapons recovered during the disarmament programmes and that Rwanda, through the joint verification mechanism, is permitted to witness the destruction of those weapons.

185. With respect to the Rwandan Government's assertion that it does not import cassiterite from the Democratic Republic of the Congo, the Group's investigations at the Rwandan foundries indicate otherwise. The Group has seen evidence of cross-border movements of cassiterite from Goma to Rwanda.

186. The level of cooperation from Uganda is on a par with that from Rwanda. Despite repeated requests from the Group of Experts (May 2004, September 2004, May 2005 and September 2005), Uganda continues to deny the experts access to the Nakasongola weapons factory. The Group of Experts has learned through diplomatic channels that the factory not only produces ammunition, but also reconditions a wide array of weapons, ranging from light weapons to heavy artillery pieces. According to other sources, the original serial numbers on the weapons are replaced by new serial numbers during the reconditioning process. The Group of Experts needs to obtain these new serial numbers in order to determine whether some of the weapons have been diverted to the eastern part of the Democratic Republic of the Congo.

187. With regard to import, export and domestic gold production statistics, despite repeated requests from the Group, the Ugandan Government has not provided any useful documentation.

188. Uganda has not provided the Group with the air traffic records for Entebbe or copies of specific flight plans, as requested and promised.

189. The Group of Experts was also able to visit the United Republic of Tanzania and Burundi. The cooperation received from both States, particularly in the area of civil aviation, was excellent.

190. The Group of Experts will continue to monitor the situation in the United Republic of Tanzania because its territory could potentially be used for weapons transit, especially through the port of Dar-es-Salaam and through Mwanza airport.

191. With regard to Burundi, the Group of Experts wishes to draw the Committee's attention to the significant number of weapons in the hands of civilians. Accordingly, the Group supports the idea of carrying out a full and independent count of these weapons, with the assistance of the international community. As long as these weapons remain in circulation they will be a potential supply source for rebel groups in Burundi and the Democratic Republic of the Congo, who could purchase them with gold deriving from the Democratic Republic of the Congo.

VIII. Collaboration between MONUC and the Group of Experts

192. Collaboration between MONUC and the Group of Experts has been very satisfactory with regard both to the exchange of information, especially with the Joint Mission Analysis Cell and G2 and to logistical support. MONUC in particular facilitated, as far as possible, the transport of the Group of Experts to remote areas, along certain borders, to mining regions in Ituri and to certain communities controlled by armed groups.

193. In the area of civil aviation, the Group received daily traffic records from the airports where MONUC is present. MONUC also provided the Group with a list of aviation accidents that have occurred in the Democratic Republic of the Congo over the last few months and with other very useful information to improve their understanding of the civil aviation situation in the Democratic Republic of the Congo.

194. The Group of Experts has made its expertise available to MONUC. For example, the orientation courses given by MONUC military observers have been revised to take into account the Group's observations.

195. The Group of Experts is also working with MONUC to revise its procedures, notably in the area of disarmament and demobilization, thereby helping to strengthen the ability of MONUC to systematize the procedure for registering both weapons and the individuals who surrender weapons voluntarily and make it more accurate and usable. Lastly, Ambassador Swing honoured the Group by inviting it to give a presentation on its work to the Ambassadors of the International Committee for Support to the Transition (CIAT).

Appendix

Countries visited

For security reasons certain individuals who have provided information or statements to the Group of Experts cannot be listed.

Austria

Enterprises: Congo Mining Holding Ltd.

Bulgaria

Government: Ministry of Foreign Affairs, Interdepartmental Council on the Issues of the military industrial complex and the mobilization readiness of the country, Council of Ministers for Bulgaria, Civil Aviation Administration

Diplomatic missions: France, Canada

Organization: United Nations Development Programme, Centre for the Study of Democracy

Enterprises: EMCO Brokers and Manufacturers Ltd., Arsenal, NITI Factory, Vega Airlines, Akbaco Ltd.

Burundi

Government: Ministry of Foreign Affairs, Régie des Voies Aérienne, Ministry of Transport

Organization: ONUB

France

Government: Ministry of Foreign Affairs, Ministry of Finance

Germany

Enterprises: SOMIKIVU

Kenya

Organization: Office of the Special Representative of the Secretary-General for the Great Lakes Region ICGLR/CIRGL

Democratic Republic of the Congo

Government: Delegation Generale du Gouvernment Chargee de Liaison avec la MONUC, Ministere des Mines, Direction Aeronautique Civil, Régie des Voies Aériennes, Banque Centrale du Congo, Commission pour la Réconstruction et le Développement, Ministry of Internal Security, Ministry of Defence, Garde Republicaine, Governor of Katanga, Lububashi International Airport, CONADER, Governor of North Kivu, Administration of Province Orientale, Office of the Special Adviser to the President

Diplomatic missions: France, United States of America, CIAT, African Union, European Union

Organization: MONUC, World Bank, Tous pour la Paix et le Développement

Enterprises: SOMIKIVU, Mining and Business Commodities, OKIMO, AngloGold Ashanti Kilo, Station Jambo Safari, Groupe Orgaman, Moto Goldmines, Bukasa Airways, Butembo Airways, Simax, Luft Cargo, Air Navette, Ruwenzori Airways, Tracep, Aigle aviation

Rwanda

Government: Special Representatives of the Office of the President, Ministry of Foreign Affairs, Civil Aviation Authority

Diplomatic missions: France, Belgium, Burundi and the United States of America

Organization: MONUC

Enterprises: Copimar, Phoenix Metal SARL, Metal Processing Association, Silverback Cargo Freighter

Senegal

Organizations: Agency for the Safety of Air Navigation in Africa and Madagascar, International Civil Aviation Organization

Uganda

Government: Ministry of Foreign Affairs, Uganda Registration Services Bureau, Civil Aviation Authority

Diplomatic missions: Austria, Germany, France

Organization: MONUC

Enterprises: ArmorGroup, Service Air

United States of America

Government: United States Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms

Diplomatic missions: Algeria, Rassemblement congolais pour la democratie, Uganda, Rwanda, Burundi, Sudan, China, France, Bulgaria, United Republic of Tanzania, Russian Federation

Organization: Department of Peacekeeping Operations of the United Nations Secretariat, World Bank

Enterprises: Alex Stewart (Assayers) Government Business Corporation

United Republic of Tanzania

Government: Ministry of Foreign Affairs and International Cooperation, Peoples Defence Forces, Harbours Authority, Revenue Authority, Tanzania Ports Authority, Bank of Tanzania, National Police, Civil Aviation Authority

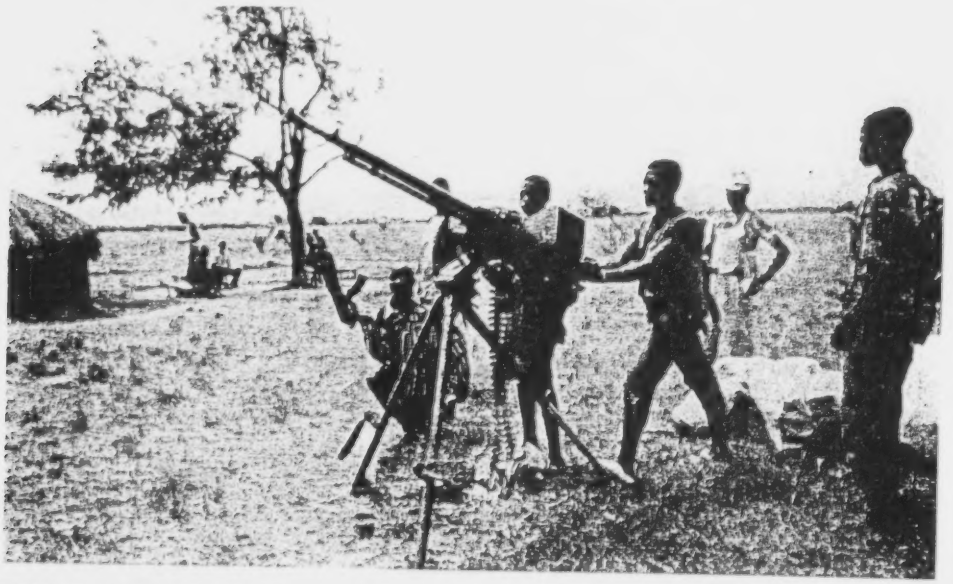
Organization: Office of the Special Representative of the Secretary-General for the Great Lakes Region ICGLR/CIRGL

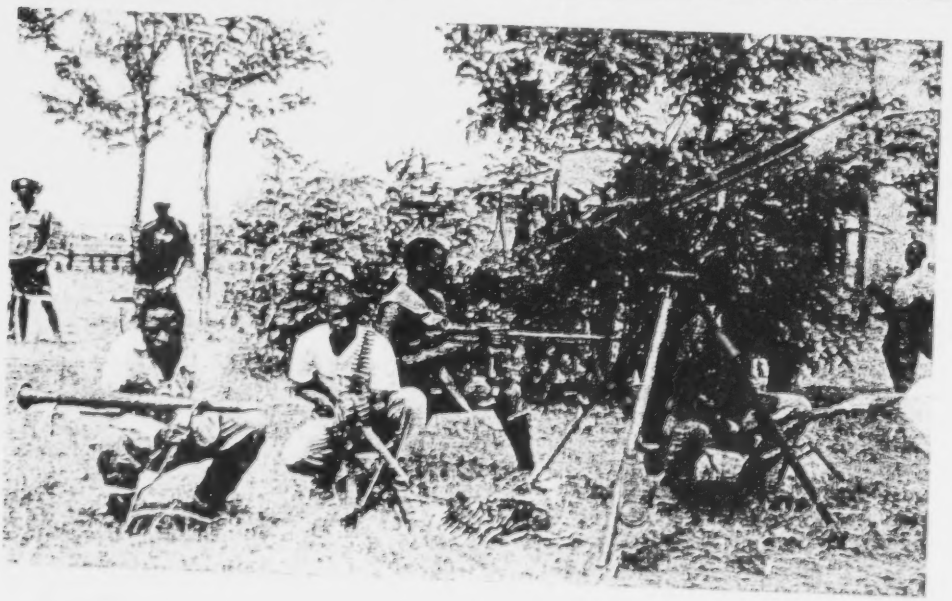
Diplomatic mission: France

Enterprises: Tanzania International Container Terminal Services, Kilwa Air

Enclosures*

1. Pictures taken by an MRC training officer at an MRC camp in Ituri in October 2005





* Enclosures 1-4 are herewith reproduced in the form in which they were received.

2. Information bulletin addressed to the Ugandan President

INTRODUCTION

Ici nous voulons juste faire mention de l'état actuel et réel du lieu qui en soit se résume à la nécessité d'agir avec plus de rapidité que l'ont peut penser.

DEVELLOPEMENT

Nous sommes déjà dans les hostilités depuis le 12 juin 2005,il y a deux fronts livrés l'un au Nord sur l'axe Camps Ndoy-Ariwara-Aru et l'autre au Sud sur l'axe Sota-Balazana-Songolo-Medu-Bogoro-Buguma. L'Ituri seul regorge 20000 hommes dont 15000 militaires bien formés et le grand Nord Kivu(Beni-Butembo) 7000 hommes armés dont 5000 militaires formés qui sont contrôlés par notre Etat major général. Tous ces militaires ont besoin de soutiens tant morale que matériel, càd. En armes et munitions, communications, vivres, medicaments, et un recyclage pour les uns et une formation complète pour les autres est nécessaire. Concernant notre capacité, nous pouvons vous rassurer qu'avec cette unités, l'Ituri et le grand Nord Kivu en générale et les Ituriens en particuliers, avec votre soutien tout sera possible.

CONCLUSION

Nos remerciements anticipatifs pour l'intérêt que vous réservez à nos différentes sollicitations et sans ignorer la rapidité que vous y mettrez afin de sauver les âmes en périls.

Fait à Kampala, le 15 juin 2005

Pour le M.R.C.

Général Major BWAMBALE VIHUTO KAKOLELE

Coordonnateur

3. Memorandum addressed to the Ugandan President by the Mouvement révolutionnaire congolais: preamble, objectives of MRC, strategy, accomplishments

MEMORANDUM DU MOUVEMENT REVOLUTIONNAIRE CONGOLAIS A L'INTENTION DU PRESIDENT OUGANDAIS

I. PREAMBULE

Les actes de barbarie dans la région des grands lacs ont commencé dès le début du 20 ème siècle, entre autres avec l'assassinat du chef ROMERA en Ituri en 1917. Des épisodes successifs apparaîtront en 1934 dans la région de l'Ituri, en 1958-1959 au Rwanda pour atteindre leur paroxysme en 1994 avec le génocide du Rwanda dont les conséquences pèsent jusqu'aujourd'hui sur l'Est de la République démocratique du Congo en général et les Kivu en particulier. Peu de temps après, en 1999, l'Ituri souffrait dans une guerre, la pire la plus sanglante de son histoire et dont le virus s'étendait même au delà de ses limites.

Le premier responsable de ce drame hier en est l'Etat Congolais lui même qui n'a pas pu jouer son rôle comme il se doit. Tout Etat a comme obligation d'organiser le territoire et la population qui y habite. Il impose des règles devant régir son peuple ainsi que son patrimoine. L'Etat Congolais en général, et le gouvernement de transition en particulier, à travers ses représentants des services administratifs, judiciaires, de l'armée et de la police, a cessé de faire son travail. Etant donné que le grand nord du Kivu et l'Ituri servaient de vache laitière à ses fonctionnaires, il ne s'est jamais soucié de placer à des postes clés des autochtones crédibles, honnêtes, compétents et responsables. Les représentants irresponsables se sont contentés d'entretenir la situation conflictuelle entre les communautés pour en tirer des dividendes matérielles et financières, abandonnant ainsi la population à son triste sort. Point n'est besoin de vous rappeler que le temps réglementaire de ce match de la transition qui vient de se solder par un score de nul blanc ne présage pas non plus des victoires aux deux prolongations constitutionnelles. Il ne restera plus que les tirs au buts! Mais qu'elle sera pendant tout ce temps le sort de notre population déjà douloureusement meurtrie?

C'est pour répondre à cette question que le mouvement révolutionnaire Congolais (M.R.C.) est né. Ce mouvement est créé par les fils du territoire pour juger tant soit peu au pogrom déclanché contre son peuple. Cette initiative dictée plus par l'instinct de conservation que par des calculs politiques ne peut pas aboutir sans le soutien des âmes sensibles au drame du genre humain. Nous sommes convaincus que vous n'hésiterez pas un seul instant à ouvrir les petits bras fragiles du M.R.C. pour protéger les innocents. Nous vous en remercions anticipativement.

II. OBJECTIFS DU M.R.C.

Le M.R.C. , se propose des objectifs suivants :

1. Poser les jalons de la paix et de la réconciliation dans l'Ituri et le Grand Kivu, en cicatrisant les blessures et les rancunes causées par la violence de tout genre qui ont endeuillé toutes les familles et les divers groupes ethniques ;
2. Gagner le plus grand nombre possible des compatriotes à sa cause pour les amener à la connaissance et la compréhension des raisons de la noble lutte à mener ;
3. Ouvrir l'espace au niveau de la communauté internationale notamment par une offensive diplomatique pour barrer la chemin à toute campagne médiatique ;
4. Atténuer l'idéologie ethnocentrique dans le domaine politique, administratif, social, culturel et même religieux ;
5. Identifier les indifférents, les mains invisibles manipulatrices et les intéresser à la pacification ;
6. Créer un vrai cadre social pour la véritable pacification en Ituri et au Kivu ;
7. Instaurer un Etat de droit ;
8. Promouvoir l'initiative privée, créatrice d'emploi et de revenu ;
9. Rechercher l'épanouissement de tous les citoyens.

III. STRATEGIES DU M.R.C.

La réalisation des objectifs ci-haut cités recours to des stratégies efficaces pour lesquelles nous notons :

1. Renforcer le sens du patriotisme et de l'unité ;
2. Mettre l'accent sur la méritocratie dans les différents recrutements et promotions ;
3. S'initier des compétences dans le groupe où il en manque ;
4. Apprendre à ne jamais généraliser un problème d'individu et voir dans l'autre un frère ;
5. Dénoncer les promoteurs de l'ethnocentrisme ;
6. Combattre les préjugés et multiplier les contacts interethniques ;
7. Dire non aux manipulations d'à dedans comme du dehors.

IV. REALISATIONS

Les cirrigeants du M.R.C. déploient des efforts considérables en dépit des multiples contraintes à réaliser tant soit peu, les objectifs immédiats de leur mouvement. Dans ce cadre il peut être invoqué :

- Le lancement d'une campagne de sensibilisation en Ituri pour expliquer les maux qui rongent cette contrée et les remèdes à y apporter ;

4. **Suspicious airplanes sighted by the Group of Experts on 16 November 2005 at Mwanza airport, United Republic of Tanzania**